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**IN THE COURT OF APPEAL OF THE STATE OF CALIFORNIA
FIFTH APPELLATE DISTRICT**

THE PEOPLE,

Plaintiff and Respondent,

v.

ANGEL GUADALUPE DIAZ, JR.,

Defendant and Appellant.

F066373

(Super. Ct. No. 12CM7354)

OPINION

THE COURT*

APPEAL from a judgment of the Superior Court of Kings County. Steven D. Barnes, Judge.

Deborah Prucha, under appointment by the Court of Appeal, for Defendant and Appellant.

Office of the State Attorney General, Sacramento, California, for Plaintiff and Respondent.

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* Before Levy, Acting P.J., Poochigian, J., and Peña, J.

INTRODUCTION

On November 14, 2012, appellant, Angel Guadalupe Diaz, Jr., entered into a plea agreement. The court advised appellant of his constitutional rights pursuant to *Boykin/Tahl*,¹ which appellant waived, and advised appellant of the consequences of his plea. Appellant pled no contest to allegations that he committed felony abuse of a spouse or cohabitant causing a traumatic injury (Pen. Code, § 273.5, subd. (a))² and had a prior serious felony conviction within the meaning of the three strikes law (§§ 667, subds. (b)-(i) & 1170.12, subds. (a)-(d)). Appellant was to receive a stipulated sentence of three years, doubled to six years pursuant to the three strikes law.³

On December 14, 2012, the trial court sentenced appellant to the stipulated state prison sentence of six years pursuant to the terms of the plea agreement. The court granted appellant applicable custody credits, imposed a \$1,440 restitution fine and other fines and fees. Appellant did not obtain a certificate of probable cause. Appellate counsel has filed a brief seeking independent review of the case by this court pursuant to *People v. Wende* (1979) 25 Cal.3d 436 (*Wende*).

FACTS

Appellant waived his right to a preliminary hearing and the parties stipulated that the police reports provided the factual basis for appellant's change of plea. The police reports were attached to the probation officer's report. On July 8, 2012, Corcoran police officers investigated a report of domestic violence. When Officer Augustus knocked on

¹ *Boykin v. Alabama* (1969) 395 U.S. 238; *In re Tahl* (1969) 1 Cal.3d 122.

² All statutory references are to the Penal Code.

³ In exchange for appellant's plea, the trial court granted the prosecutor's motion to dismiss four felony allegations that appellant committed assault with a deadly weapon by means likely to cause great bodily injury (§ 245, subd. (a)(1)), made a criminal threat (§ 422), violated a victim's personal liberty (§ 236), and unlawfully attempted to dissuade a witness (§ 136.1, subd. (b)(1)).

the door of the residence occupied by Bridgette A. and appellant, Bridgette A. answered the door. She was crying and bleeding from her mouth and ran behind Augustus. Bridgette A. stated that appellant was trying to kill her with a knife and went into Augustus's patrol unit while he investigated. They had been in a cohabitating relationship for two months.

According to Bridgette A., appellant began to yell at her after she told him she had just visited her mother. Appellant said she was lying and grabbed her around the neck with one hand and began choking her. Appellant pushed Bridgette A. backwards, causing her to fall to the ground. This occurred in the front yard of the house. When Bridgette A. stood up, appellant pulled her toward the house by her hair. She saw several large clumps of hair falling out of her head. Augustus saw several strands of loose hair around Bridgette A.'s shoulder.

Appellant's assault continued inside the house, where he hit Bridgette A. in the face near her eye with his closed fist and choked her. Eventually, appellant had Bridgette A. pinned on the bed and raised a knife to stab her. Appellant threatened to kill her. Appellant impaled the mattress next to Bridgette A.'s head. Bridgette A. had a swollen right lip with blood around her lips, a two-inch bruise to the left side of her eye socket, and an abrasion to her right knee.

APPELLATE COURT REVIEW

Appellant's appointed appellate counsel has filed an opening brief that summarizes the pertinent facts, raises no issues, and requests this court to review the record independently. (*Wende, supra*, 25 Cal.3d 436.) The opening brief also includes the declaration of appellate counsel indicating that appellant was advised he could file his own brief with this court. By letter on February 27, 2013, we invited appellant to submit additional briefing. To date, he has not done so.

After independent review of the record, we have concluded there are no reasonably arguable legal or factual issues.

DISPOSITION

The judgment is affirmed.